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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/780,302 02/09/01 HAWLEY

J M 6678 HAMC

000423
HENKEL CORPORATION
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PM82/1010

EXAMINER

TRAN, K

ART UNIT

PAPER NUMBER

3634

DATE MAILED:

10/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/780,903

Applicant(s)

HAWLEY

Examiner

Khoa Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 9, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 9, 2001 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other:

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DETAILED ACTION

Drawings

The drawings are objected to because reference numeral "2" has been used twice to designate different elements of both the triangular ridge (see Figure 5) and the circular ridge (see Figures 3 and 6). Note these two ridges are not structurally the same and therefore they cannot share the same reference character. Also, reference numeral "4" is objected to because it has been used repeatedly to identify more than one element. Note the upper surface of Figures 5 and 6 are not structurally the same as of Figures 3 and 7 in having the valley shaped configurations. Note, the variations of an element constitute "different" elements. Correction is required.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 5, the recitation of "or" renders the claims indefinite

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because it is not knowing which one to the two nonequivalent alternatives the applicant is positively set forth. Claim 12, the scope of the claim is unascertainable because it is not knowing what the type of harness the applicant is trying to set forth or claim. Further, there is no antecedent basis for "3 Shore A Hardness units"

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Callas.

The claims are of such breadth that they read on the liner structure of Callas. Callas discloses a liner structure (10) comprising a sufficiently soft and flexible non-curling mat (Polyvinyl chloride plastic for resisting wear and cracking, 80A hardness properties) having two types of soft and hard plastic of Polyethylene chloride, see column 1, lines 45-50, and column 2, lines 6-8. The liner structure has a plurality of sufficiently soft extending ridges (14) on top of the surface and a non-skid bottom surface (15) that is flat/undulating (Figure 3) or having extended round ridges (16) (Figure 21). With respect to claims 8, 9, 10 and 12, it would have been an obvious matter of

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engineering design choice at the time of the invention was made to choose the type and the degree of hardness of the plastic for a particular application because it is well-within the level of skill in the art to utilize the various of the well-know per se and readily available type of plastics that yield the desire softness or hardness for the known features of it properties of the art for the purpose for which they are known thus producing no new matters.

Claims 1-10 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Martey. The claims are of such breadth that they read on the liner structure of Martey. Martey discloses a liner structure (1) comprising a sufficiently soft top surface with a plurality of extending ridges (3) and a non-skid bottom surface (4) that has a plurality of parallel ridges (10, 11), (Figure 2). The liner structure of Martey is non-curling because it is sufficiently rigid so that it cannot wrap around and suffocate a child, see disclosure in the abstract. With respect to claims 8, 9, 10 and 12, it would have been an obvious matter of engineering design choice at the time of the invention was made to choose the type and the degree of hardness of the plastic for a particular application because it is well-within the level of skill in the art to utilize the various of the well-know per se and readily available type of plastics that yield the desire softness or hardness for the known features of it properties of the art for the purpose for which they are known thus producing no new matters.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carla or Martey as applied to claims 1-10 and 12 above, and further in view of Naka ('947). Naka ('947) teaches the triangular upward extending ridges (14) on top of the liner structure, see Figures 6C and 7. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide on top of the liner structure of Callas with the triangular ridges as taught by Naka ('947) in order to have the non-skip top surface liner structure.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Doshi, Breitscheidel et al., Miles et al., Morrison, Rumsey et al., Karlsson, Murphy, Naka ('320), ('825), ('942), Nakahira, Hatada et al., Dees, Jr. et al., Balmer et al., Lind et al., Lowthian, Gilman, Sturtevant et al., Flum, Bustos ('288), ('623), ('388), ('177), ('706), Lecroy, Eiden, and Martindale et al. are cited to show similar configurations of design.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 8:30 A.M. to 7:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicant is hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. _____) on _____
(Date)

Type or printed name of person signing this certificate:


(Signature)

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Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran

September 20, 2001



Jerry Redman
Primary Examiner